S 9.10: 9469

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 9469

IRRIGATION PUMPING

Agreement Between the
UNITED STATES OF AMERICA
and EGYPT

Signed at Cairo September 27, 1977

NOTE BY THE DEPARTMENT OF STATE

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EGYPT

Irrigation Pumping

Agreement signed at Cairo September 27, 1977;
Entered into force September 27, 1977.

A.I.D. Loan Number 263-K-039
Project Number 263-0040

PROJECT
LOAN AGREEMENT
AMONG
THE ARAB REPUBLIC OF EGYPT,
THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF IRRIGATION
FOR
IRRIGATION PUMPING

Dated: SEPTEMBER 27, 1977

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[1] Not printed herein. For text, see TIAS 9458; 30 UST.

A.I.D. Project No. 263-0040

PROJECT LOAN AGREEMENT DATED: SEPTEMBER 27, 1977 AMONG THE ARAB REPUBLIC OF EGYPT ("ARE"), AND THE MINISTRY OF IRRIGATION ("MINISTRY") AND THE UNITED STATES OF AMERICA, ACTING THROUGH THE AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

ARTICLE 1: The Agreement.

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Borrower of the Project described below, and with respect to the financing of the Project by the Parties.

ARTICLE 2: The Project.

SECTION 2.1. Definition of Project. The Project, which is further described in Annex 1, will consist of the installation of irrigation water pumping facilities at 34 sites in Middle and Upper Egypt, and will provide financing for the necessary equipment and supplies for the installation of new or replacement pumps. Annex 1, attached, amplifies the above definition of the project.

Within the limits of the above definition of the Project, elements of the amplified description stated in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 9.2, without formal amendment of this Agreement.

ARTICLE 3: Financing.

SECTION 3.1. The Loan. To assist the Borrower to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended,[1] agrees to lend the Borrower under the terms of this Agreement not to exceed Eleven Million United States ("U.S.") Dollars ($11,000,000) ("Loan"). The aggregate amount of disbursements under the Loan is referred to as "Principal". The Loan may be used only to finance foreign exchange costs, as defined in Section 7.1 of goods and services required for the Project.

SECTION 3.2. Borrower Resources for the Project.

(a) The Borrower agrees to provide or cause to be provided for the Project all funds, in addition to the Loan, and all other resources required to carry out the Project effectively and in a timely manner.

(b) The resources provided by Borrower for the Project will not be less than Five Million Twenty-Eight Thousand Nine Hundred Egyptian Pounds (L.E. 5,028,900), including costs borne on an "in-kind" basis.

[1] 75 Stat. 424; 22 U.S.C. § 2151 note.

SECTION 3.3. Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is February 28, 1981 or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Loan will have been performed and all goods financed under the Loan will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Loan (1) in response to requests received by A.I.D. after January 31, 1980, or (2) for services performed subsequent to the PACD or for foods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, are to be received by A.I.D. or any bank described in Section 8.1 no later than five (5) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Borrower, may at any time or times reduce the amount of the Loan by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

ARTICLE 4: Loan Terms.

SECTION 4.1. Interest. The Borrower will pay to A.I.D. interest which will accrue at the rate of two percent (2%) per annum for ten (10) years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance will accrue from the date (as defined in Section 8.3) of each respective disbursement, and will be payable semiannually. The first payment of interest will be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by A.I.D.

SECTION 4.2. Repayment. The Borrower will repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement of the Loan in sixty-one (61) approximately equal semiannual installments of Principal and interest. The first installment of Principal will be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with Section 4.1. A.I.D. will provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

SECTION 4.3. Application, Currency, and Place of Payment. All payments of interest and Principal hereunder will be made in U.S. Dollars and will be applied first to the payment of interest due and

then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, payments will be made to the Controller, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, U.S.A., and will be deemed made when received by the Office of Financial Management.

SECTION 4.4. Prepayment. Upon payment of all interest and any refunds then due, the Borrower may prepay, without penalty, all or any part of the Principal. Unless A.I.D. otherwise agrees in writing, any such prepayment will be applied to the installments of Principal in the inverse order of their maturity.

SECTION 4.5. Renegotiation of Terms. (a) The Borrower and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of the Arab Republic of Egypt, which enable the Borrower to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made pursuant to Section 9.2 and will give the name and address of the person or persons who will represent the requesting Party in such negotiations.

(c) Within thirty (30) days after delivery of a request to negotiate, the requested party will communicate to the other, pursuant to Section 9.2, the name and address of the person or persons who will represent the requested Party in such negotiations.

(d) The representatives of the Parties will meet to carry on negotiations no later than thirty (30) days after delivery of the requested Party's communication under Subsection (c). The negotiations will take place at a location mutually agreed upon by the representatives of the Parties, provided that, in the absence of mutual agreement, the negotiations will take place at the office of Borrower's Minister of Economy and Economic Development in the Arab Republic of Egypt.

SECTION 4.6. Termination on Full Payment. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Borrower and A.I.D. under it will cease.

ARTICLE 5: Conditions Precedent to Disbursement.

SECTION 5.1. First Disbursement. Prior to the first disbursement under the Loan, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Borrower will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) An opinion of the Minister of Justice or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower and the Ministry,

and it constitutes a valid and legally binding obligation of the Borrower and the Ministry in accordance with all of its terms;

(b) A statement of the names of the persons holding or acting in the offices of the Borrower specified in Section 9.2, and of any additional representatives, together with a specimen signature of each person specified in such statement;

(c) Evidence that the loan proceeds will be made available to the Ministry on terms and conditions acceptable to A.I.D.;

(d) An executed contract approved by A.I.D. with a U.S. consulting engineering firm acceptable to A.I.D. for project-related services; and

(e) Such other documentation as A.I.D. may require.

SECTION 5.2. Additional Disbursement. Prior to any disbursement, or to the issuance of any commitment documents under the Project Agreement for procurement of pumping, shop or transport equipment, Borrower shall, except as A.I.D. may otherwise agree in writing, furnish in form and substance satisfactory to A.I.D. evidence of satisfactory arrangements with the Rural Electric Authority for installation of distribution lines, and with the Ministry of Transportation for provision of access roads to the project sites.

SECTION 5.3. Notification. When A.I.D. has determined that the Conditions Precedent specified in Sections 5.1 and 5.2 have been met, it will promptly notify the Borrower.

SECTION 5.4. Terminal Dates for Conditions Precedent. If all of the conditions specified in Section 5.1 have not been met within 120 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to Borrower.

ARTICLE 6: Special Covenants.

SECTION 6.1. Project Evaluation. The Parties agree to establish an evaluation program as part of the Project except as the Parties other wise agree in writing, the program will include, during the implementation of the project and at one or more points thereafter: (a) evaluation of progress toward attainment of the objectives of the Project; (b) identification and evaluation of problem areas or constraints which may inhibit such attainment; (c) assessment of how such information may be used to help overcome such problems; and (d) evaluation, to the degree feasible, of the overall development impact of the Project.

ARTICLE 7: Procurement Source.

SECTION 7.1. Foreign Exchange Costs. Disbursements pursuant to Section 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in the United States (Code 000 of the AID Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services) ("Foreign Exchange Costs"), except as A.I.D. may otherwise

agree in writing, and except as provided in the Project Loan Standard Provisions Annex, Section C.1 (b) with respect to marine insurance.

ARTICLE 8: Disbursements.

SECTION 8.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Borrower may obtain disbursements of funds under the Loan for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agreed upon:

(1) by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or (B) requests for A.I.D. to procure commodities or services in Borrower's behalf for the Project; or

(2) by requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letter of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by Borrower in connection with Letters of Commitment and Letters of Credit will be financed under the Loan unless the Borrower instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Loan.

SECTION 8.2. Other Forms of Disbursement. Disbursements of the Loan may also be made through such other means as the Parties may agree to in writing.

SECTION 8.3. Date of Disbursement. Disbursements by A.I.D. will be deemed to occur on the date on which A.I.D. makes a disbursement to the Borrower or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment, contract, or purchase order.

ARTICLE 9: Miscellaneous:

SECTION 9.1. Communications. Any notice, request, document or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such party at the following address:

TO THE BORROWER:

Ministry of Irrigation
Kasr El Eini St.
Cairo, Egypt

To A.I.D.:

A.I.D.
U.S. Embassy
Cairo, Egypt

all such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

SECTION 9.2. Representatives. For all purposes relevant to this Agreement, the Borrower will be represented by the individuals holding or acting in the offices of Minister of Economy and Economic Cooperation, Minister of Irrigation and First Undersecretary of State for Economy and Economic Cooperation and A.I.D. will be represented by the individual holding or acting in the office of Director, U.S.A.I.D., each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex 1. The names of the representatives of the Borrower, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

SECTION 9.3. Standard Provisions Annex. A "Project Loan Standard Provisions Annex" (Annex 2)[1] is attached and forms part of this Agreement.

IN WITNESS WHEREOF, the Borrower and the United States of America, each acting through its duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

ARAB REPUBLIC OF EGYPT

By: MAHMOUD SALEH EL-DIN HAMED

Name: Dr. Mahmoud Saleh el Din Hamed

Title: *Minister of Finance and Acting Minister of Economy and Economic Cooperation*

MINISTRY OF IRRIGATION

By: A. A. ATTA

Name: A. A. Atta

Title: *Minister of Irrigation*

UNITED STATES OF AMERICA

By: H. FREEMAN MATTHEWS, JR.

Name: H. Freeman Matthews, Jr.

Title: *Charge d'Affaires a.i.*

[1] See footnote 1, p. 2.

PROJECT DESCRIPTION

This Project involves the replacement of 17 existing pump stations in Aswan and Qena Governorates and the installation of 17 new stations in Beni Suef, Minia and Sohog Governorates.

The Project also provides support equipment for pump station installation and maintenance and shop equipment to upgrade the maintenance and rebuild capability of existing shops. Funding is also being provided for consulting engineering services required for finalization of bidding documents, review of bids, award recommendations and monitoring of procurement and project implementation.

Attachment A to Annex 1

PROJECT FINANCIAL PLAN
(Source and Application of Funding)

As of September , 1977 Project No. 263–0040

Project Inputs	Loan (US $)	Amount for a Fully Funded Project	
		Grant	Borrower/ Grantee (L.E.)
Pumping Stations	7,029,915		3,545,220
Support Equipment	1,378,685		360,930
Consultant Services	350,000		117,000
Contingencies			
Physical 10%	875,860		402,320
Price	1,365,540		603,430
Total Project Costs	11,000,000		5,028,900

U.S. GOVERNMENT PRINTING OFFICE: 1978